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[fol. 1]

IN THE
DISTRICT COURT OF THE UNITED STATES
WESTERN DISTRICT OF OKLAHOMA

Civil No. 4039

G. W. McLAURIN, Plaintiff,

vs.

OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION,
BOARD OF REGENTS OF UNIVERSITY OF OKLAHOMA,
GEORGE L. CROSS, LAWRENCE H. SNYDER
AND J. E. FELLOWS, Defendants

COMPLAINT—Filed August 5, 1948

1. The jurisdiction of this Court is invoked under Judicial Code, Section 24 (1) (28 U.S.C., Section 41 (1)), this being a suit in equity which arises under the Constitution and laws of the United States, viz., the Fourteenth Amendment of said Constitution and Sections 41 and 43 of Title 8 of the United States Code, wherein the matter in controversy exceeds, exclusive of interest and costs, the sum of \$3000. The jurisdiction of this Court is also invoked under Judicial Code, Section 24 (14) (24 U.S.C., Section 41 (14)), this being a suit in equity authorized by law to be brought to redress the deprivation under color of law, statute, regulation, custom and usage of a state of rights, privileges and immunities secured by the Constitution of the United States, viz., the Fourteenth Amendment to said Constitution, and of rights secured by laws of the United States providing for equal rights of citizens of the United States and of all persons within the jurisdiction of the United States, viz., Sections 41 and 43 of Title 8 of the United States Code. The jurisdiction of this Court is also invoked under Judicial Code, Section 266 (28 U.S.C. Section 380), this being an action for an interlocutory injunction restraining the enforcement and execution of a state statute and restraining the order, policy, custom and usage of an administrative board of a state pursuant to such statute.

2. All individual parties to this action, both plaintiff and defendants, are citizens of the United States and of the

and color pursuant to the Oklahoma Statutes set out in the preceding paragraph, which statutes have been, are being and unless redress is granted by this Court will continue to be enforced by the orders of the defendants so as to deny to the plaintiff and others on whose behalf he sues the rights guaranteed by the equal protection and due process clauses of the Fourteenth Amendment; and section 43 of Title 8 of the United States Code. The above named statutes are enforced by the defendants to exclude plaintiff and other qualified Negro applicants solely because of race and color from attending the University of Oklahoma to take courses of education offered only at said University.

[fo]. 8] 14. The Board of Regents in adopting and enforcing the order, policy, custom and usage set out above acted and is acting under and pursuant to the statutes of Oklahoma, as set out above. The action of the defendants in enforcing said order, policy, custom and usage pursuant to state statutes denies to the plaintiff and others similarly situated rights guaranteed by the Constitution and laws of the United States and is therefore unconstitutional and void. Insofar as the Statutes of Oklahoma set out above are applied and enforced by defendants to deprive the plaintiff of the right to attend the University of Oklahoma said statutes are unconstitutional and void as denying to plaintiff the equal protection and due process of law guaranteed by the Fourteenth Amendment to the United States Constitution.

15. The plaintiff was denied admission to the Graduate School of the University of Oklahoma solely because of race and color for the regular midterm beginning February, 1948. Plaintiff is informed and believes and therefore avers that the next regular term of the Graduate School of the University of Oklahoma will begin in September, 1948. Plaintiff's application has not been accepted up to the present time and plaintiff is informed and believes and therefore avers that he will not be admitted to the September term and will continue to be excluded solely because of race or color pursuant to the order, policy, custom and usage adopted and maintained by defendants acting under and pursuant to the Statutes of Oklahoma unless this Court enjoins the enforcement of the above mentioned order, policy, custom and usage by the defendants. Immediate

and irreparable injury, loss and damage will result to [fol. 9] plaintiff and others on whose behalf he sues by reason of the enforcement of the above mentioned order, policy, custom and usage as has been particularly set forth above.

16. The action of the defendants in adopting and maintaining the order, policy, custom and usage complained of above acting under and pursuant to the Statutes of Oklahoma set out above denies to the plaintiff and others on whose behalf he sues the liberty guaranteed by the Fourteenth Amendment of the United States Constitution.

17. The defendants by their illegal and wrongful acts complained of herein damaged this plaintiff in the sum of and to the extent of Five Thousand (\$5000.00) Dollars.

18. The plaintiff and others similarly situated and affected, on whose behalf this suit is brought, are suffering irreparable injury and are threatened with irreparable injury in the future by reason of the acts herein complained of; they have no plain adequate or complete remedy to redress the wrong and illegal acts herein complained of other than this action for damages, and injunction; any other remedy to which plaintiff and those similarly situated could be remitted would be attended by such uncertainties and delays as to deny substantial relief, would involve multiplicity of suits, and would cause further irreparable injury, damage, vexation and inconvenience to the plaintiff and those similarly situated.

19. The defendants are enforcing and will continue to enforce the order, policy, custom and usage set out above and unless this Court issues a preliminary injunction the rights of plaintiff and others on whose behalf he sues to attend the graduate school of the University of Oklahoma beginning the fall term of this year, will be unprotected and lost.

[fol. 10] WHEREFORE, plaintiff respectfully prays Court that upon filing of this complaint:

1. That this Court immediately convene a Three Judge Court as required by Section 266 of the Judicial Code.

2. That this Court issue a preliminary or interlocutory injunction restraining the defendants and each of them,

[fol. 14] IN UNITED STATES DISTRICT COURT

MOTION FOR PRELIMINARY INJUNCTION—Filed Aug. 5, 1948

Plaintiff, G. W. McLaurin, moves the Court for a preliminary injunction in the above-entitled cause, enjoining the defendants, their agents, servants, employees, attorneys, and all persons in active concert or participation with them, pending the final hearing and determination of this cause, from

1. Excluding the plaintiff and others on whose behalf he sues from admission to courses offered only at the graduate schools of the University of Oklahoma solely because of race and color;

2. Enforcing and maintaining the order, policy, custom and usage adopted pursuant to Sections 455, 456 and 457 of the Oklahoma Statutes of 1941 whereby the plaintiff and other-qualified Negro applicants are excluded from admission to courses offered only at the graduate schools of the University of Oklahoma solely because of race and color;

3. All action pursuant to Sections 455, 456 and 457 of the Oklahoma Statutes of 1941 which preclude the admission of the plaintiff and other qualified Negroes to courses offered only at the graduate schools of the University of Oklahoma solely because of race and color on the grounds that said statutes as applied to this plaintiff and others on whose behalf he sues denies to them the rights guaranteed by the equal protection and due process clauses of the Fourteenth Amendment, the liberty guaranteed by the Fourteenth Amendment to the United States Constitution and Sections 41 and 43 of Title 8 of the United States Code.

The grounds in support of this motion are as follows:

1. Unless restrained the defendants will continue to exclude the plaintiff and others on whose behalf he sues from admission to courses offered only at the graduate schools of the University of Oklahoma solely because of race and color; and will continue enforcing and maintaining

[fol. 15] the order, policy, custom and usage adopted

pursuant to Sections 455, 456 and 457 of the Oklahoma Statutes of 1941 whereby the plaintiff and other qualified Negro applicants are excluded from admission to the graduate schools of the University of Oklahoma solely because of race and color;

2. Immediate and irreparable injury, loss, and damage will result to plaintiff by reason of the action of defendants in excluding plaintiff and others similarly situated from the next session of the graduate schools of the University of Oklahoma which begins in September 1948;

3. If defendant continues to exclude the plaintiff and others on whose behalf he sues from admission to the graduate schools of the University of Oklahoma solely because of race and color, and continues to enforce and maintain the order, policy, custom and usage adopted pursuant to Sections 455, 456 and 457 of the Oklahoma Statutes of 1941 whereby the plaintiff and other qualified Negro applicants are excluded from admission to the graduate schools of the University of Oklahoma solely because of race and color, any judgment which this Court may later render on final determination of this cause will be ineffective;

4. If this preliminary injunction be granted, the injury, if any, to defendant herein, if final judgment be in his favor, will be inconsiderable and will be adequately indemnified by bond.

Amos T. Hall, 107½ N. Greenwood Ave., Tulsa, Oklahoma;
Thurgood Marshall, 20 West 40 Street, New York, Attorneys for Plaintiff.

NOTICE OF MOTION FOR PRELIMINARY INJUNCTION

To: Oklahoma State Regents for Higher Education;
Board of Regents of University of Oklahoma
George L. Cross, Lawrence H. Snyder and J. E.
Ellows

Please take notice that the undersigned will bring the above motion for a preliminary injunction on for hearing before this Court at United States Courts and Post Office [fol. 16] Building, Oklahoma City, Oklahoma on the 23 day of Aug., 1948 at 10: A. M. o'clock of that day or as soon thereafter as counsel can be heard.

Date

Amos T. Hall, 107½ N. Greenwood Ave., Tulsa, Oklahoma; Thurgood Marshall, 20 West 40th Street, New York, N. Y., Attorneys for Plaintiff.

[fol. 17]

IN THE UNITED STATES DISTRICT COURT

ORDER CONVENING THREE JUDGE COURT—Aug. 6, 1948

It appearing from the complaint filed in this cause that the constitutionality of a state statute is involved, and the plaintiff having prayed for a three-judge hearing, as provided by Section 266 of the Judicial Code, the cause is set for hearing on the application for a preliminary injunction, August 23, 1948 at 10:00 A. M., and Judge Alfred P. Murrah, of the Circuit Court of Appeals, and Judge Bower Broadbuss, District Judge in this District, are called to sit with the undersigned District Judge in the hearing of said matters.

Dated this 6th day of August, 1948.

Edgar S. Vaught, United States District Judge.

[fol. 18] IN THE DISTRICT COURT OF THE UNITED STATES,
WESTERN DISTRICT OF OKLAHOMA

[Title omitted]

ANSWER—Filed Aug. 23, 1948.

Come now the above defendants and in answer to the complaint filed herein, allege and state:

1. The complaint fails to state a claim against defendants upon which relief can be granted.